

By: Zaffirini

S.B. No. 2022

A BILL TO BE ENTITLED

AN ACT

relating to competitive and integrated employment of persons with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 62, Labor Code, is amended by adding Section 62.058 to read as follows:

Sec. 62.058. SUBMINIMUM WAGE SETTINGS; STATE FUNDING. Beginning September 1, 2024, state funds may not be used for services provided by, or to purchase goods from, an entity that employs individuals with disabilities in subminimum wage settings, including a community rehabilitation program, sheltered workshop, or work activity center.

SECTION 2. Subchapter B, Chapter 352, Labor Code, is amended by adding Sections 352.060 and 352.061 to read as follows:

Sec. 352.060. PLAN FOR REDUCTION OF FUNDING FOR CERTAIN ENTITIES PROVIDING EMPLOYMENT AT SUBMINIMUM WAGES. (a) In this section "community rehabilitation program," "individual with a disability," "sheltered workshop," and "subminimum wage setting" have the meanings assigned by Section 352.151.

(b) Not later than September 1, 2020, the commission:

(1) in consultation with the Health and Human Services Commission, the Texas Education Agency, the comptroller, the advisory committee established under Section 122.0057, Human Resources Code, the Rehabilitation Council of Texas, and other

relevant state agencies and statewide organizations, shall adopt a plan to phase out the use of state funds for services provided by, and goods purchased from, an entity that employs individuals with disabilities in subminimum wage settings, including a community rehabilitation program, sheltered workshop, or work activity center; and

(2) shall submit the plan to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the legislative committees with appropriate jurisdiction.

(c) The plan adopted under this section must identify:

(1) benchmarks and desired outcomes for each year of the phaseout period;

(2) the resources necessary to ensure that individuals with disabilities:

(A) receive support according to the needs and preferences of the individuals; and

(B) are employed in integrated settings, regardless of the nature or severity of the individuals' disabilities;

(3) all federal and state funds, including funds available under Medicaid, that may be used to assist individuals with disabilities in obtaining competitive, integrated employment; and

(4) a system for tracking the employment outcomes of individuals with disabilities, including tracking the:

(A) wages received by the individuals;

(B) unemployment rates of the individuals; and

1 (C) number of individuals moved from subminimum
2 wage settings to:

3 (i) competitive, integrated employment;
4 and

5 (ii) nonpaying activities.

6 (d) Not later than September 1 of each year, the commission
7 shall submit to the governor, lieutenant governor, speaker of the
8 house of representatives, and chairs of the legislative committees
9 with appropriate jurisdiction a report on the development of the
10 plan required under this section. The report must include:

11 (1) a description of the benchmarks and desired
12 outcomes identified in Subsection (c)(1) and the status of
13 achieving the benchmarks and outcomes; and

14 (2) recommendations for funding and resources
15 necessary to implement the plan.

16 (e) This section expires September 1, 2024.

17 Sec. 352.061. WAGE STUDY. (a) In this section "individual
18 with a disability" has the meaning assigned by Section 352.151.

19 (b) The commission, in consultation with relevant state
20 agencies, advisory committees, and organizations, shall conduct a
21 study concerning individuals with disabilities in this state who
22 are employed at or above minimum wage but below the federal
23 prevailing wage for employees who do not have a disability. The
24 study must address:

25 (1) the number and demographics of individuals with
26 disabilities who earn at least minimum wage but less than the
27 federal prevailing wage for employees who do not have a disability;

1 (2) to what extent the individuals with disabilities
2 are employed in integrated settings, as defined by 34 C.F.R.
3 Section 361.5;

4 (3) the type of employment of individuals with
5 disabilities, including whether the individuals are employed under
6 federal AbilityOne contracts;

7 (4) whether any changes in federal law or policy
8 regarding the payment of lower wages to individuals with
9 disabilities occur or are likely to occur after September 1, 2017,
10 and if so a description of those laws or policies; and

11 (5) whether opportunities exist for individuals with
12 disabilities to obtain employment at similar rates of pay in
13 competitive work settings.

14 (c) Not later than September 1, 2018, the commission shall
15 submit to the governor, lieutenant governor, speaker of the house
16 of representatives, and chairs of the legislative committees with
17 appropriate jurisdiction a report on the findings of the study
18 conducted under this section. The report must include
19 recommendations for increasing the employment of individuals with
20 disabilities in integrated work settings at competitive wages.

21 (d) This section expires September 1, 2019.

22 SECTION 3. Chapter 352, Labor Code, is amended by adding
23 Subchapter D to read as follows:

24 SUBCHAPTER D. COMPETITIVE WAGES AND INTEGRATED WORK SETTINGS FOR
25 INDIVIDUALS WITH DISABILITIES

26 Sec. 352.151. DEFINITIONS. In this subchapter:

27 (1) "Community rehabilitation program" has the

1 meaning assigned by Section 122.002, Human Resources Code.

2 (2) "Individual with a disability" means any
3 individual who has a physical or mental impairment that constitutes
4 a substantial impediment to employment, or to achieving maximum
5 personal independence, but that is of a nature that rehabilitation
6 services may be expected to enable the individual to engage in a
7 gainful occupation or enable the individual to achieve a greater
8 level of self-care and independent living.

9 (3) "Sheltered workshop" means an organization
10 described by Section 62.161.

11 (4) "Subminimum wage setting" means an employment
12 environment in which persons with disabilities are segregated and
13 receive wages that are less than the federal minimum wage.

14 Sec. 352.152. INDIVIDUAL PLAN FOR COMPETITIVE AND
15 INTEGRATED EMPLOYMENT. (a) The commission shall develop
16 processes for:

17 (1) identifying all clients who are individuals with
18 disabilities and are employed in subminimum wage settings by an
19 entity that employs individuals with disabilities in subminimum
20 wage settings, including a community rehabilitation program,
21 sheltered workshop, or work activity center; and

22 (2) creating an individual plan for competitive and
23 integrated employment for each client described by Subdivision (1)
24 that addresses moving the client into employment in an integrated
25 work setting at a competitive wage.

26 (b) A counselor of a client identified by the commission as
27 an individual with a disability who is employed in a subminimum wage

1 setting as described by Subsection (a)(1) shall prepare for the
2 individual an individual plan for competitive and integrated
3 employment in the format prescribed by the commission.

4 (c) An individual plan for competitive and integrated
5 employment must:

6 (1) include a recommendation on the type of integrated
7 work environment that is most appropriate to meet the client's
8 needs based on the client's strengths, resources, priorities,
9 concerns, capabilities, interests, and informed choices;

10 (2) identify the services, supports, and
11 accommodations necessary for the client's employment in the most
12 appropriate integrated work environment;

13 (3) identify the barriers preventing the client from
14 receiving the necessary services, supports, and accommodations,
15 including:

16 (A) access to funding or necessary resources and
17 services;

18 (B) access to medical or behavioral support;

19 (C) decision-making by the individual or the
20 individual's representative, as appropriate; and

21 (D) family members' concerns about or opposition
22 to the client's employment in an integrated work environment;

23 (4) include a plan for monitoring progress in
24 resolving the barriers identified in Subdivision (3); and

25 (5) for a client employed in a subminimum wage
26 setting:

27 (A) establish a goal for the client to achieve a

1 specific employment outcome with the employer;

2 (B) include a description of the actions,
3 accommodations, and supports needed to achieve the client's goal;

4 (C) identify barriers to the client obtaining
5 competitive and integrated employment with the employer;

6 (D) establish a plan for monitoring the progress
7 toward achieving the client's goal; and

8 (E) establish goals and activities for the client
9 on days that work is not available or the client chooses not to
10 work.

11 (d) A counselor shall involve the client, the client's
12 representative, if applicable, and the client's employer in
13 preparing and revising the individual plan. The counselor must use
14 appropriate communications devices and techniques to facilitate
15 the client's involvement in preparing and revising the individual
16 plan.

17 (e) Annually or at the request of a client, the client's
18 counselor shall meet with the client to discuss the progress of the
19 client's goals under the individual plan and reevaluate the most
20 appropriate integrated work environment for the individual in
21 accordance with the Americans with Disabilities Act of 1990 (42
22 U.S.C. Section 12101 et seq.). The counselor shall document the
23 discussions held and recommendations made during the meeting.

24 Sec. 352.1521. OUTCOMES OF INDIVIDUAL PLANS FOR COMPETITIVE
25 AND INTEGRATED EMPLOYMENT. (a) Not later than September 1 of each
26 year, the commission shall submit to the governor, lieutenant
27 governor, speaker of the house of representatives, and chairs of

1 the legislative committees with appropriate jurisdiction a report
2 summarizing by region and statewide the progress of commission
3 clients with individual plans for competitive and integrated
4 employment under Section 352.152, including de-identified
5 information about the:

6 (1) wages received by the individuals;
7 (2) unemployment rates of the individuals; and
8 (3) number of individuals moved from subminimum wage
9 settings to:

10 (A) competitive, integrated employment; and
11 (B) nonpaying activities.

12 (b) This section expires September 1, 2024.

13 Sec. 352.153. REQUIRED NOTICE TO CLIENT. (a) A client's
14 counselor shall provide notice to the client that the client has the
15 right to:

16 (1) choose the type of employment and employer the
17 client prefers; and

18 (2) decide when to work.

19 (b) At the time an individual with a disability begins
20 employment in a subminimum wage setting, the individual's employer
21 shall provide information about all opportunities to obtain
22 competitive, integrated employment with the employer.

23 SECTION 4. Not later than March 1, 2018, the Texas Workforce
24 Commission shall adopt rules necessary to implement Subchapter D,
25 Chapter 352, Labor Code, as added by this Act.

26 SECTION 5. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 6. This Act takes effect September 1, 2017.